

Division VIII of Title 5 of the California Code of Regulations

Proposed Amendments to California Code of Regulations, Title 5 Section 80121 Pertaining to General Provisions Governing Waivers, Section 80124 Pertaining to Requirements for a Request for Subsequent Variable Term Waiver for a Specific Applicant, and Section 80125 Pertaining to Submitting Requests for Variable Term Waivers; Approvals and Denials

Initial Statement of Reasons

Rationale for Proposed Regulations

Title 5 Sections 80121, 80124 and 80125 are proposed to be amended due to significant changes in the method the Commission processes credential waivers. Credential waivers are an employment option available to employing agencies when there is a shortage of credentialed personnel. The Commission has had the responsibility for granting credential waivers since July 1994. When the Commission assumed this responsibility, the Appeals and Waivers Committee of the Commission reviewed and made recommendations to the Commission as a whole on credential waiver requests. Due to the significant reduction in the volume of credential waivers, the Commission determined it no longer needed to take action on waiver requests. As a result, the review and approval process of the Appeals and Waivers Committee and full Commission was eliminated; thus allowing staff the authority to issue credential waivers.

The change proposed to section 80121 would remove the option of an “individual” from having the authority to apply for a waiver. The proposed amendment to section 80124 would delete the Plan to Develop Fully Qualified Educators as an option to request a subsequent waiver. The two major proposed changes to section 80125 would establish a ninety (90) day submission timeframe for waivers and authorize Commission staff to review and determine the outcome of all waiver requests.

Proposed Amendments to Regulations

Section 80121

- *80121(c)(5)* When an employer has a shortage of credentialed personnel, the agency may request a Variable Term Waiver to meet its hiring needs. Staff is proposing that the term “individuals” be removed from this section because a request for a credential waiver is initiated by an employing agency on behalf of a specific individual.

Section 80124

- *80124(a)* The Plan to Develop Fully Qualified Educators is being removed because this option expired on January 4, 2004 per Title 5 Section 80026.4.

Section 80125

- *80125(a)* Staff is proposing the form Variable Term Waiver Request (form WV1 1/98) be removed to allow the Commission to develop a new form for the waiver process and allow for future revisions without having to go through the regulatory process.
- *80125(b)* A credential waiver is an option of last resort for employing agencies to employ or assign individuals who are not appropriately credentialed for a particular subject area, grade level or group of students. The Commission took action to allow staff the authority to issue waivers. It is proposed that the submission guidelines be modified to a ninety (90) day timeframe to align the evaluation and approval process to staff's authority to grant waivers. This change will expedite the waiver process and verify that those serving in an assignment on the basis of a credential waiver meet the minimum eligibility requirements within a reasonable amount of time.
- *80125(b)(1)* Staff is proposing that waiver requests that are not submitted within the revised ninety (90) day submission timeframe will be denied due to lateness. Individuals that serve on the basis of a credential waiver do not have the same level of experience and/or educational background of those who hold a credential, internship credential or emergency teaching permit. Timely submission and evaluation of the request is important to verify eligibility for the waiver document and prompt notification to all interested parties of the outcome of the waiver request.
- *80125(b)(2)* Staff is proposing a notification of denial for late submission of the waiver request will be mailed to all parties involved indicating the applicant must be removed from the assignment when a waiver is not submitted within the required ninety (90) day timeframe.
- *80125(c)* A credential waiver is not an option if the applicant qualifies for a credential or permit that authorizes the same service. Staff is proposing that waiver requests submitted within the ninety (90) day submission timeframe that demonstrate eligibility for a credential or permit, may be returned for the appropriate document.
- *80125(c)(1)* It is proposed that under staff's responsibility to evaluate and approve waivers, requests submitted within the established timeframes that demonstrate the waiver eligibility requirements will be issued. The waiver document will indicate the applicant's credential goal and the service appropriate to that credential.
- *80125(c)(2)* Staff is proposing that waiver requests that do not meet the eligibility requirements will result in the receipt of a denial notification by all interested parties.

- *80125(c)(2)(A)* Staff is proposing that denial notifications for ineligibility explain the reasons for denial and allow the employer the opportunity to resubmit the waiver packet with new information that was not originally submitted. If the employing agency does not resubmit the request the applicant must be removed from the assignment.
- *80125(c)(3)* Staff is proposing that waiver requests resubmitted for review within thirty (30) days of the denial notification will be re-evaluated. This allows the employing agency the opportunity to provide information that was not previously available to establish eligibility for the waiver document.
- *80125(c)(3)(A)* Staff proposes that waiver requests resubmitted within the thirty (30) day resubmission timeframe that demonstrate eligibility for a credential or permit may be returned for the appropriate document. A credential waiver is not an option if the applicant qualifies for a credential or permit that authorizes the same service.
- *80125(c)(3)(B)* Staff proposes that timely resubmissions that meet the waiver eligibility requirements will be issued. The waiver document will indicate the applicant's credential goal and the service appropriate to that credential.
- *80125(c)(3)(C)* Staff is proposing that timely resubmissions that do not meet the eligibility requirements will receive a final denial notification at which time the applicant must be removed from the assignment.
- *80125(c)(4)* Staff is proposing that waiver requests that are not resubmitted within the thirty (30) day resubmission timeframe will receive a final denial notification at which time the applicant must be removed from the assignment.

Documents Relied Upon in Preparing Regulations

The Commission did not rely upon any technical, theoretical or empirical studies, reports or documents in proposing the adoption of this regulation amendment.

Alternatives Considered

The Commission must determine that no alternative considered will be more effective in carrying out the purpose for which the action is proposed or will be as effective and less burdensome to affected private persons or small businesses than the proposed action.